REMARKS/ARGUMENTS

Applicant first wishes to thank Examiner Grier for her indication of allowable subject matter. Reconsideration of the above-identified patent application is respectfully requested in view of the foregoing amendments and following remarks. Claims 13, 14, and 15 have been amended. Claims 13 - 26 remain in the case.

Claims 13 - 17 and 25 were rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,370,254 for AUDIO-VISUAL REPRODUCTION, issued April 9, 2002 to David Norman Gore et al. GORE et al. essentially teach an automatic volume control system useful for regulating the audio level of a signal presented in a retail environment. The level of the delivered signal is regulated based on the instantaneous background noise level in the store. Such a system would have absolutely no applicability in a listening space for use as intended by Applicant's space. Applicant provides a space with acoustical parameters that are well known and reproducible in other, substantially acoustically identical spaces. One of the reasons for providing such spaces is to enable listeners to hear sonic nuances associated with an audio signal being monitored. It is assumed that a background noise level in such a space would be low, probably below the threshold of perceptibility even for people with acute hearing ability. To provide an automatic gain control based on changes in a probably imperceptible background noise level as taught by GORE et al. is senseless.

At issue is both understanding the inapplicability of GORE et al. to the instant claims, and perhaps the fundamental definition of "substantially acoustically identical enclosures." Applicant provides a carefully constructed, calibrated, reproducible listening space. More particularly, Applicant provides more than one such listening space, the object of which is that a listener may have a substantially identical listening experience REGARDLESS of which of

Applicant's plurality of "substantially acoustically identical enclosures" he/she listens in.

To understand what constitutes a "substantially acoustically identical enclosure," it is necessary to answer the question, How are the "acoustics" of an enclosure or space quantified? There are many techniques well known to those of skill in the audio arts. One common technique is to measure reverberation times at a number of frequencies across the audible audio spectrum. Another widely used technique is to measure an impulse response at one or more points in the space being characterized. Applicant's point is that no matter what well known acoustical characterization tool, method, or set of tools and methods might be applied, it is ridiculous to think that measurements in any two retail spaces as taught by GORE et al. could possibly be found to indicate "substantially acoustically identical" results. Applicant believes that for two spaces to be found substantially acoustically identical, the reverberation times and/or other measurement results would have to be so close that any differences in a sound field in the two spaces would fall beneath an auditory perceptual threshold.

Applicant's specification is silent regarding what constitutes substantially acoustically identical. A simple Google® Internet search of the terms "acoustically identical" yielded several results for recording studios using language such as "control room A is acoustically identical to control room B." Applicant therefore believes that the term "acoustically identical" is a proper term of art recognized and understood by recording engineers, architects who specialize in the acoustical treatment of spaces, and other such persons having skill in the acoustical arts.

GORE et al. fail to teach or suggest anything remotely resembling a plurality of substantially acoustically identical spaces. Therefore, Applicant respectfully traverses the rejection of claims 13 - 17 and 25 under 35 U.S.C. §102(e) as being anticipated by GORE et al.

Claims 13 - 16, 19 - 20, and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,009,507 for SYSTEM AND METHOD FOR DISTRIBUTING PROCESSING AMONG ONE OR MORE PROCESSORS, issued December 28, 1999 to Evan Brooks et al. in view of In re Harza, 274 F.2d 669.

BROOKS et al. teach a system for minimizing capital investment in digital signal processing hardware by using distributed signal processing techniques in digital audio workstations (DAWs). BROOKS et al. clearly state: "Two important features desirable in any DAW are the DAW's ability to perform audio "tasks" (such as equalization, reverberation, etc.) in a real-time, efficient manner and the ability of the DAW to handle a number of tasks simultaneously or nearly simultaneously. Anything slower than real-time is unacceptable, and anything faster results in more capacity per unit time on the processor for it to perform other tasks (if the system can take advantage of it). Furthermore, it is a desirable feature of a DAW that its design and operation be flexible enough so that the digital signal processors (DSPs) called upon to perform the selected tasks are programmed to be used in the most efficient and effective manner to achieve the desired result, the production of an audio production or soundtrack."

As understood by Applicant, In re Harza, the Court of Customs and Patent Appeals upheld the principle that: "It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced...."

The rejected instant claims 13 - 16 do not teach a DAW or any other element that might employ digital signal processing. In addition, there is no "duplication" of any device taught or suggested by BROOKS et al. The rejection of claims 13 - 16 over BROOKS et al. in view of In re Harza is, therefore, respectfully traversed.

Applicant's claim 19 does recite a DAW as a portion of a means for reproducing sound. However, there is NO teaching or suggestion of a distributed signal processing technique. It should be readily apparent that there is a significant structural difference between systems having discreet DAWs, each DAW being substantially functionally identical to one another, in two DIFFERENT ones of a plurality of substantially acoustically identical spaces and having a single DAW in a single location, the later DAW using distributed processing to accomplish audio signal processing functions. Applicant's claim 19 recites the former, BROOKS et al. provide the latter.

In addition, Applicant believes that the replication of substantially acoustically identical spaces DOES produce a new, "unexpected" result. As described in the instant specification, various production personnel spread around the globe can participate, either simultaneously or non-simultaneously, in an identical listening experience without being physically present in a single listening space. This possibility has heretofore been unavailable to the recording, movie, and similar industries where numerous people need to participate in mixing sessions or the like.

There is no recitation of a DAW utilizing distributed signal processing in Applicant's claim 19. Adding the teaching of In re Harza still fails to suggest the subject matter of claim 19. Therefore, Applicant respectfully traverses the rejection of claim 19 under 35 U.S.C. §103(a) in view of In re Harza.

Regarding claims 20 and 26, each merely claims additional patentable limitations of claim 16 (believed to be allowable). Nothing in BROOKS et al., either standing alone or combined with the principles of In re Harza, suggest the subject matter of instant claims 20 and 26. Their rejection under 35 U.S.C. §103(a) over BROOKS et al. in view of In re Harza is also respectfully rejected.

Nonetheless, claims 13, 14, and 15 have been amended to more clearly recite Applicant's disclosed structure.

Claims 18 and 21 - 24 were found to contain allowable subject matter. These claims are still deemed allowable by Applicant as they depend from now allowable claims.

In view of the foregoing amendments and remarks, Applicant respectfully requests that claims 13 - 26 be allowed and a timely Notice of Allowance be issued in this case.

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